

Examiner Chester T. Barry
Appln. of Redmon et al.
Ser. No.: 10/667,893
Response of 8/17/2005

REMARKS

Claims 3-4 were rejected as allegedly anticipated by Stover (U.S. Patent 6,036,862). Reconsideration of the rejection is respectfully requested.

With respect to claim 3, Stover's thermophilic reactor control strategy applies signals representative of liquid temperature and liquid ORP (oxidation-reduction potential) to maintain liquid temperature within a predetermined range. (col. 3, lines 15-30) Stover's Figure 1 shows a connection between O₂ and CO₂ sensors and his PLC, but applicants have been unable to discover in Stover how, if at all, the data from these sensors generates control signals. It is not apparent to applicants that the data from these sensors is fed into the PLC for any purpose other than routing to a display or recordation for print-out and use in periodic manual adjustment of the oxygen-reduction control parameters. It is true that col. 7, lines 16 and 34 speak of monitoring and "adjustments", but there is no disclosure that such adjustments are initiated by the PLC, or that they are brought about in accord with clause C of the claim which calls for "at least one controller . . . which defines, for the varying amounts of consumption of oxygen that occur in the biological process, control values, or components of control values, that change in response to, while remaining correlative

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with, such varying amounts of oxygen consumption, which controller generates control signals based on the control values or components."

In regard to claim 4, Stover speaks of matching oxygen transfer to oxygen demand, but explains that because the bulk liquid in aerobic thermophilic systems manifests such low DO (dissolved oxygen) levels, it is "impossible to accurately measure" DO levels in the reactor. (col. 6, lines 40-49) While the forgoing passage says that ORP is used as an indicator of DO, Stover does not anticipate claim 4. Clauses A and B of the claim call for elements that can take at least two different kinds of measurements, and clause C calls for a controller that can utilize both of those kinds of measurements. In this connection, clause A calls for "at least one gas detector that can take measurements of the amount of at least one gas collected in the gas collection member", while clause B calls for "at least one DO (dissolved oxygen) detector having a probe that, when in contact with the wastewater in the tank, can take measurements of the DO level of the wastewater". Clause C of the claim calls for "at least one controller containing or having access to code which the controller can utilize with said measurements [referring back to measurements by the elements of clauses A and B] to provide, in the control system, control values which are at least in part correlative with changing needs for the supply of dissolved oxygen to the wastewater.

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Reconsideration of the rejection under 35 U.S.C. §112, ¶2, is respectfully requested. The use of "may" in the sub-clauses referred to in the rejection are present in claims 1 and 2 merely to indicate that an excess or deficiency might be present. However, the claim language does not specifically exclude the absence of excesses or deficiencies. Since the disclosure and claims are directed to processes and apparatus for mitigating excesses and deficiencies, or, in ideal circumstances, to their virtual elimination, it is believed that persons of ordinary skill in the art, reading the disclosure and claims in light of the purposes of the invention, would conclude that the claims do not exclude "a condition in which oxygen is neither an excess nor a deficiency". Certainly, applicants do not wish the claims to be interpreted to exclude such a condition. Thus, if after considering the foregoing discussion the Examiner still believes such an interpretation of the claims is likely, applicant's counsel would gladly discuss the matter with the Examiner in an effort to find amendatory language which would avoid such an interpretation.

The objection to claim 1, and similar errors noted in claims 2 and 4, have been addressed in the attached claim listing by correcting the spelling of "dissolved" where needed.

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The Examiner's reminder about an IDS (Information Disclosure Statement) is sincerely appreciated. The undersigned, although now in good health, experienced periods of serious illness, two hospitalizations, rehabilitation and intervening intense, debilitating further treatment during portions of 2003 and 2004. As a consequence, at the time when he would normally have filed an IDS, he overlooked, literally forgot about, the need to file an IDS disclosing documents found in pre-filing patentability searching. It is believed that Mr. Pequignot, who kindly monitored the case while the undersigned was ill and recovering, would not and did not intentionally withhold the citation of art. An IDS is now under preparation by the undersigned with the goal of filing it and the required fee by September 6, 2005. If for any reason this schedule will be inconvenient or unacceptable from the Examiner's point of view, will he please advise the undersigned by telephone (240-731-1083) and every effort will be made to file the material sooner.

Respectfully submitted,



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